

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Review of the Emergency Alert System

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EB Docket No. 04-296

COMMENTS OF USA MOBILITY, INC.

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TABLE OF CONTENTS

INTRODUCTION AND SUMMARY	1
BACKGROUND	2
DISCUSSION	4
I. The Commission Should Establish an Expanded National Alert System That Includes Paging Service Providers and Other Wireless Carriers.....	4
A. Inclusion of Wireless Services Is Necessary to Ensure Broad and Redundant Transmission of Emergency Alerts.	4
B. Paging Service Providers Will Play an Important Role in an Effective Expanded EAS.....	6
C. The Commission Has Ample Authority to Establish an Expanded EAS and Should Play a Lead Role in Its Development and Oversight.....	9
II. Participation in Expanded EAS Should Be Mandatory for Providers of Wireless Services.....	10
III. The Expanded EAS Should Be Designed to Facilitate Interoperability and Coordination Among All Relevant Parties.	11
A. The Expanded EAS Should Ensure Interoperability Among Differing Communications Platforms.....	11
B. Federal, State and Local Authorities Should Utilize the Same Infrastructure and Protocols.....	13
C. The Commission Should Not Consider Adopting Performance Standards Until Well After the New System Is Implemented.	14
CONCLUSION.....	15

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USA Mobility, Inc. (“USA Mobility”) respectfully submits these comments in response to the Commission’s Further Notice of Proposed Rulemaking in the above-captioned docket regarding the proposed expansion of the Emergency Alert System (“EAS”).¹

INTRODUCTION AND SUMMARY

USA Mobility strongly supports the Commission’s interest in developing a more comprehensive EAS that is capable of meeting the communications challenges associated with a broad range of emergency situations. In particular, USA Mobility agrees with the Commission that the expanded EAS should encompass wireless services in addition to broadcast, cable, and DBS services. As the nation’s leading provider of paging services, USA Mobility, in addition to its mass market consumer and business services, provides mission-critical text-messaging services to police officers, firefighters, emergency medical teams, and related personnel in a broad range of crisis situations. USA Mobility appreciates the opportunity to comment based on its significant experience assisting with emergency communications and looks forward to working with the Commission on the expansion of the vitally important EAS program.

¹ *Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (rel. Nov. 10, 2005) (“*FNPRM*”).

As discussed below, the increasingly central role of wireless communications in the daily lives of Americans makes the inclusion of wireless services essential to the success of an expanded EAS. Paging services, in particular, offer unique attributes that are ideally suited to emergency communications. Paging networks provide redundant, reliable, and cost-effective communications capabilities that have made pagers a preferred device among many first responders.

In light of the Commission's objective of ensuring broad and redundant transmission of critical emergency information, USA Mobility believes that participation in the new EAS should be mandatory for all communications providers. The existing system—which allows participation by providers of wireless services on a voluntary basis—has not produced the type of industry-wide participation or the level of cooperation among industry participants and government agencies that are necessary to achieve the Commission's objectives.

Finally, the expanded EAS should be grounded in the principles of interoperability and coordination. The system should be designed so that all providers receive emergency information in a form that can be readily passed on to their customers. Governmental authorities at all levels should be able to utilize the same infrastructure to harmonize their response to emergencies and to avoid placing unnecessary burdens on service providers.

BACKGROUND

USA Mobility is the leading provider of traditional one-way and advanced two-way paging services in the United States. Paging was one of the nation's earliest means of wireless telecommunications, and paging network infrastructure has become well-established across the country. While the mass market for paging services has declined rapidly in recent years (as most consumers have migrated to mobile phone services), USA Mobility continues to play an

important role in providing cost-effective and highly reliable text-messaging solutions to government agencies and commercial enterprises, including in particular the health care sector. For example, during Hurricane Katrina, police officers, firefighters, hospital workers, and government officials were able to use USA Mobility pagers to communicate when land lines and cell phones were not in service.

USA Mobility was formed in late 2004 by the merger of Arch Wireless, Inc. and Metrocall Holdings, Inc., then the nation's two largest independent paging and wireless messaging companies.² As a result of the merger, USA Mobility is able to offer paging and wireless messaging services throughout an expansive coverage area. Indeed, the company operates the largest traditional one-way paging network within the United States, reaching more than 90 percent of the U.S. population. The company's two-way wireless data network is also the largest in the nation. USA Mobility offers wireless messaging to over 1,000 cities in the United States, including the country's 100 largest markets, and serves more than 80 percent of Fortune 1000 companies. As of September 30, 2005, USA Mobility provided service to over 5.1 million messaging devices.

USA Mobility operates a network consisting of approximately 15,000 narrowband PCS base-station transmitters, which are controlled by satellites. The transmitter antennas, which are often located 300 feet off the ground, simulcast high-powered signals of up to 3,500 watts effective radiating power ("ERP") from multiple towers.³ Transmitters receive signals directly via satellite instead of through the wireline infrastructure, making them far less vulnerable than mobile phone services to hurricanes, earthquakes, and other sources of outages. For example,

² Both companies are now operated as subsidiaries of USA Mobility.

³ By contrast, a traditional cellular system utilizes a single tower in a given area, and the towers are only about 90 feet high, transmitting a relatively weak signal of 100 watts ERP.

after Hurricane Katrina, USA Mobility was able to restore messaging service within two days in the geographic areas hardest hit by the storm, while most wireline and wireless providers took much longer to restore service.

As the industry leader in wireless paging and messaging services, USA Mobility is an ideal candidate to participate in an expanded EAS and looks forward to working with representatives of other industry segments and the Commission to assist with the development of the new system.

DISCUSSION

I. THE COMMISSION SHOULD ESTABLISH AN EXPANDED NATIONAL ALERT SYSTEM THAT INCLUDES PAGING SERVICE PROVIDERS AND OTHER WIRELESS CARRIERS.

USA Mobility supports the Commission's interest in developing "a more comprehensive system" that provides emergency alerts through multiple communications channels.⁴ The inclusion of wireless services generally, and paging services in particular, is an essential step towards meeting this goal.

A. Inclusion of Wireless Services Is Necessary to Ensure Broad and Redundant Transmission of Emergency Alerts.

Recent crises—including most notably Hurricane Katrina—have highlighted the importance of relaying critical emergency alerts through multiple channels. In such situations, it is imperative that emergency information be available to first responders, other government officials, and the public at large. Providing alerts to the television and radio audience—as the existing EAS aims to do—may reach a significant percentage of the population, but that approach also inevitably fails to provide critical information to many citizens, including officials

⁴ *FNPRM* ¶ 61.

charged with responding to a crisis. As the *FNPRM* notes, “[w]ireless products are becoming an equal to television and radio as an avenue to reach the American public quickly and efficiently.”⁵ Indeed, as of December 2004, nearly 185 million Americans—including the vast majority of all adults—subscribed to mobile telephone services,⁶ and another 8.5 million Americans subscribed to paging services.⁷ In light of such prevalence, the expanded EAS should include wireless services as a central component, and the Commission should design the system architecture and common protocols with this future in mind.

The mobility associated with today’s wireless devices also makes them an essential part of an expanded EAS. In any emergency—especially one involving evacuation plans—people will be on the move, making their mobile wireless devices the best, and perhaps only, way for them to receive alerts and other communications. Expanding the EAS to include mobile wireless devices thus will address one of the critical shortcomings of the existing system: consumers often are far from a television or radio when emergency messages are broadcast.

In any event, regardless of which device (a television, radio, mobile wireless device, or something else) provides the best chance of reaching a particular consumer, the Commission fortunately need not choose among them in designing an expanded EAS. Rather, as the *FNPRM* recognizes, ensuring “built-in redundancy features and use [of] a variety of communications

⁵ *Id.* ¶ 69.

⁶ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Tenth Report, WT Docket No. 05-71, FCC 05-173, ¶ 161 (rel. Sept. 26, 2005).

⁷ *Id.* ¶ 166. With the rise of data-ready cellular phones and networked personal data assistants, the number of pagers is on the decline among the general population. However, pagers remain popular in niche markets such as first responders, medical personnel, service-driven businesses, and other sectors needing reliable basic data service at low cost.

media” will allow officials to “reach large numbers of people simultaneously.”⁸ By including wireless services in the expanded EAS, the Commission will create a layered web of “safety nets,” so that if one platform fails, another will fill the void.

B. Paging Service Providers Will Play an Important Role in an Effective Expanded EAS.

While wireless services generally will represent an important component of an expanded EAS, the system would be sorely lacking without the participation of paging services in particular. The unique network characteristics of paging systems and their extensive use by first responders, medical personnel, and government agencies make paging ideal for inclusion in an expanded EAS.

First, paging services offer extremely broad geographic coverage. USA Mobility alone employs 16,000 transmitters to cover over 90 percent of the U.S. population, including the nation’s 100 largest cities. Part of the reason for this broad coverage from relatively few towers is that paging systems transmit signals from a much higher elevation than cellular and broadband PCS providers—approximately 300 feet for paging transmitters, compared to approximately 90 feet for cellular and broadband PCS transmitters. Moreover, paging transmitters emit an extremely powerful signal of 3,500 watts ERP (as compared to an average signal of 100 watts ERP for cellular and broadband PCS communications). The combination of high-elevation and high-power transmissions enables paging signals to better cover rural areas and irregular terrain than their cellular counterparts and to deliver better in-building reception and transmission.

Paging systems are also inherently redundant. The Commission has noted that the expanded emergency alert system “should have built-in redundancy features.”⁹ Paging systems

⁸ *FNPRM* ¶ 62.

⁹ *Id.*

can further this goal even apart from participating alongside other technology platforms, because messages are simulcast from multiple towers to each device. Thus, unlike other wireless services, the failure of one tower will not necessarily cut off communication to all users who are serviced by that tower.

Moreover, paging systems are well-suited for participation in the expanded EAS because they remain highly reliable in emergency conditions. Unlike cell phones and PDAs, paging devices typically run on a single AA battery and have a long battery life. The devices are not affected by a loss of electrical power, as there is no need to recharge them.

Just as importantly, paging networks tend to be more resilient (in light of their reliance on simulcasting) and quicker to recover than other communications networks. As noted above, paging networks consist of stand-alone towers that use satellites for backhaul, and are thus independent of the traditional wireline infrastructure. In a weather-related crisis or terrorist attack, the wireline network may be directly disabled or overloaded by high volume usage. The public cellular and broadband PCS network would likewise be affected. On September 11, 2001, for example, the percentage of blocked cellular calls exceeded 75% in New York City and 50% in Washington, D.C.¹⁰ The failure of traditional voice communications networks to deal effectively with the tragedies of September 11 underscores the benefits of two-way paging in an emergency. According to one expert, two-way paging “should be considered a primary or backup system to improve real-time communication among emergency personnel during critical periods when voice communication is not practical or fails.”¹¹ Indeed, the aftermath of

¹⁰ Cellular Telecommunications & Internet Association, report to the Network Reliability Interoperability Council: “Network Impact and Recovery Efforts—September 11, 2001,” 1-2 (Oct. 23, 2001), *quoted in* Peter Kapsales, *Wireless Messaging for Homeland Security: Using Narrowband PCS for Improved Communication During Emergencies*, 2 (March 2004), *available at* <http://www.homelanddefense.org/journal/Articles/Kapsales.html>.

¹¹ Kapsales, *Wireless Messaging*, at 1.

Hurricane Katrina powerfully illustrated the reliability of paging systems in a crisis situation. By retaining broad network coverage during the storm and restoring coverage quickly afterward—the paging network was fully operational within two days in the geographic areas hardest hit by the storm, while most wireline and wireless providers required far longer to restore full service—USA Mobility demonstrated its ability to provide reliable and resilient messaging capabilities in the face of the most destructive of catastrophes.

Paging systems also offer the important benefit of cost effectiveness compared to other text-messaging technologies. Standard paging devices can be purchased more far cheaply than cellular phones or PDAs. This disparity in cost continues to make pagers an attractive option for employers and government agencies that need basic messaging capabilities but wish to avoid paying for the voice capabilities offered by cell phones and many integrated PDA/phone combinations. The cost savings also appeal to low-income consumers who cannot afford more expensive wireless communications services. Including paging services in the expanded EAS thus will enable the Commission to ensure the broadest possible dissemination of emergency messages to these wireless users.

Finally, the widespread use of paging systems by first responders, health care workers, and other government agencies makes a strong case for their inclusion in the expanded EAS. Police officers, firefighters, and other first responders rely on paging systems to receive critical emergency information, using their pagers as either their primary or back-up communications devices. Doctors, nurses, emergency medical technicians, and other medical personnel often use the paging network as their primary means of wireless communication. State and local government agencies are also significant users of paging services. Thus, key personnel in any emergency response situation already are likely to rely on paging services to receive critical

information. By integrating paging systems into the expanded EAS, the Commission will promote improved coordination and more effective communication among such critical personnel.

In short, paging systems continue to be relied upon to transmit emergency information to more people in hard-to-reach areas than other communications services. The Commission should take advantage of the broad geographic coverage and high transmitting power of paging systems by including paging services in the expanded EAS.

C. The Commission Has Ample Authority to Establish an Expanded EAS and Should Play a Lead Role in Its Development and Oversight.

As the Order accompanying the *FNPRM* recognizes, the Commission has ample authority to regulate emergency alerts and warnings.¹² The Commission is the sole agency with broad authority over all major communications services, so it is ideally situated to oversee a comprehensive national EAS. Historically, the Commission has filled this role with its oversight of the Emergency Broadcast System and later the EAS. The development of an expanded EAS should be seen as a natural continuation of the Commission's traditional role.

In developing an expanded EAS, the Commission should work closely with other federal agencies that have overlapping jurisdiction and experience, including the Federal Emergency Management Agency ("FEMA") and the National Weather Service ("NWS"). FEMA and NWS, among other federal agencies, have made important contributions to the development of a comprehensive national alert system. State and local governments also will play an integral role in the development, testing, and implementation of new systems. Thus, while the Commission should play a lead role in issuing the requisite mandates and convening working groups (as

¹² See Order ¶ 5 (citing 47 U.S.C. §§ 151, 154(i), 154(o), 303(r), 606); see *FNPRM* ¶ 63 (seeking comment on the Commission's statutory authority and the role it should play in creating a new alert system).

discussed further below), it should coordinate closely with its sister agencies at the federal and state levels. Such broad and inclusive participation will be essential to the success of an expanded EAS.

II. PARTICIPATION IN EXPANDED EAS SHOULD BE MANDATORY FOR PROVIDERS OF WIRELESS SERVICES.

The Commission should make the expanded EAS mandatory for providers of commercial mobile radio services.¹³ As shown above, CMRS providers now play a major role in meeting society's communications needs, and mobile wireless technology is ideally suited to the transmission of emergency messages. Yet, only a mandatory regime can ensure the necessary commitment of resources and coordination among wireless carriers, the governmental entities providing alert messages, and other key parties.

Making participation in an expanded EAS voluntary for wireless service providers would likely replicate the status quo: few, if any, would participate. Entities not subject to EAS mandates *already* can participate in the system voluntarily.¹⁴ A principal reason that CMRS carriers seldom if ever volunteer to receive alert messages is that the existing rules are overwhelmingly geared toward broadcasters.

Participation by paging providers and other wireless carriers will be efficient and productive only if the new system is designed with such participants in mind. Specifically, USA Mobility seeks to participate in an expanded EAS based on the critical assumption that alert messages will be transmitted via an efficient system architecture and in an appropriate format that does not require service providers to replace existing network equipment or require consumers to replace existing devices. Such an efficient system will require a significant up-

¹³ See *FNPRM* ¶ 63.

¹⁴ See 47 C.F.R. § 11.11(e).

front investment of resources by industry and government, working together to ensure that all participating technologies are accommodated. It is unreasonable to expect the necessary degree of engagement and investment absent mandatory participation. If service providers believe that competitors will gain advantage by avoiding the costs associated with participation, a race to the bottom will result and the Commission's goals will be undermined.

Mandatory participation also is justified by the need to ensure that all consumers will benefit from an expanded EAS. A consumer's ability to receive critical alert messages should not depend on the service provider's unilateral decision to avoid participation in the national EAS. While it is possible that, over time, market forces would spur widespread participation, the stakes are too high to wait until such market incentives develop or to risk the possibility that they will not. The only way for the Commission to ensure uniform availability to emergency information is to make participation in an expanded EAS mandatory for CMRS providers.¹⁵

III. THE EXPANDED EAS SHOULD BE DESIGNED TO FACILITATE INTEROPERABILITY AND COORDINATION AMONG ALL RELEVANT PARTIES.

In response to the Commission's inquiries regarding system design,¹⁶ USA Mobility proposes that the Commission should be guided by the principles of interoperability and coordination and should establish a working group to develop inclusive technical standards.

A. The Expanded EAS Should Ensure Interoperability Among Differing Communications Platforms.

The *FNPRM* seeks comment on a range of potential system architectures, including point-to-multipoint distribution of alert messages (possibly incorporating satellite transmission)

¹⁵ USA Mobility recognizes that participation in the expanded EAS may be impracticable for very small providers. In such cases, exemptions for providers meeting a *de minimis* threshold are appropriate.

¹⁶ See *FNPRM* ¶¶ 65-81.

as well as common messaging protocols.¹⁷ USA Mobility believes that a satellite-based point-to-multipoint system employing a common messaging protocol appears sensible. But such details should be subordinate to the overarching need to ensure that, whatever design is selected, service providers will be able to receive emergency alerts in a form that enables seamless redistribution to their customers. In other words, the Commission should ensure that the expanded EAS promotes the maximum degree of interoperability so that technical barriers do not stand in the way of a more robust and redundant national alert system.

To further this goal, the Commission should convene a technical working group made up of leading industry representatives from all relevant sectors and public officials from the Commission, FEMA, and NWS, as well as state and local governments.¹⁸ Bringing together key stakeholders will enable the working group to devise a system architecture and messaging protocol(s) that account for the needs of the entities that will be charged with disseminating alerts to the public. The working group should be given an accelerated timetable. The Commission later could seek comment on the recommendations issued by the working group. By contrast, developing technical standards through a notice-and-comment rulemaking proceeding alone would make it very difficult to anticipate and resolve the challenges associated with incorporating a wide array of different technical platforms into the EAS.

¹⁷ *Id.* ¶¶ 66-67.

¹⁸ *Cf. Warning, Alert, and Response Network Act*, S. 1753, 109th Cong., 1st Sess. (2005) (calling for establishment of a working group including representatives of federal government agencies, state and local governments, and communications service providers to establish guidelines for the technical capabilities and requirements of a national alert system).

B. Federal, State and Local Authorities Should Utilize the Same Infrastructure and Protocols.

Development and operation of the expanded EAS should be based on close coordination among federal, state, and local governmental authorities.¹⁹ From hurricanes to chemical spills to school shootings, most emergencies occur at the state or local level. Even emergencies of a national scope, such as the terrorist attacks of September 11, deeply affect states and municipalities. With this in mind, USA Mobility applauds the Commission's recognition of the "vital connection between state and local alert and warning and Federal efforts to mitigate disasters."²⁰ Moreover, USA Mobility supports the proposal that state governors should have "the ability to utilize EAS facilities in order to disseminate potentially life-saving information."²¹

Increased involvement of state and local officials should be accompanied by concerted efforts to avoid imposing duplicative obligations on service providers. As long as state- and local-initiated alerts employ the same protocols and standards as the national alert system, service providers will not bear unreasonable burdens in disseminating additional alert messages. It will be essential to ensure that state and local officials do not rely on distinct system architectures or face different technical requirements, because subjecting service providers to a patchwork of inconsistent obligations would inevitably undermine the effectiveness of an integrated national alert system. State and local participation in the expanded EAS should be contingent on compliance by those political subdivisions with the national standards adopted by the Commission, based on the vital interest in operational uniformity.

¹⁹ See *FNPRM* ¶ 73.

²⁰ *Id.*

²¹ *Id.*

C. The Commission Should Not Consider Adopting Performance Standards Until Well After the New System Is Implemented.

The expanded EAS will include service providers that have never before participated in a national emergency alert and warning system. Any discussion of government-imposed performance standards—regarding such matters as the length of time it takes to transmit a particular message or the accuracy of the message—is therefore premature.²² There is no reason to presume that performance will be inadequate or require significant governmental oversight. In particular, if the Commission establishes a working group that designs technical standards with the full range of participating providers in mind, the likelihood of strong performance will be high. Moreover, the prospect of performance mandates—and the associated burdens they entail—will chill service providers’ incentives to support an expanded EAS, thereby jeopardizing the important objectives at stake. USA Mobility accordingly urges the Commission to remain focused on the immediate goal of developing a successful, workable EAS and to refrain from considering performance standards until the new system is fully implemented.

²² *Id.* ¶ 72.

CONCLUSION

For the foregoing reasons, the Commission should include wireless providers generally and paging systems in particular in its expanded EAS on a mandatory basis. The expanded EAS should employ a system that is interoperable among various providers and is coordinated for uniformity at the federal, state, and local levels. The Commission should refrain from considering performance mandates until well after it implements the expanded system.

Respectfully submitted,

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